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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE, Plaintiff and Respondent, v. GEVORK S. GUYUNDZHYAN, Defendant and Appellant.	B233517 (Los Angeles County Super. Ct. No. BA304764)

APPEAL from a judgment of the Superior Court of Los Angeles County. Barbara R. Johnson, Judge. Affirmed.

Jonathan E. Demson, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Victoria B. Wilson and Erika D. Jackson, Deputy Attorneys General, for Plaintiff and Respondent.

This case concerns a string of robberies and commercial burglaries which occurred over the span of 10 days in close proximity. Defendant Gevork S. Guyundzhyan appeals from his conviction for five counts of second degree robbery (Pen. Code, § 211, counts 1-5) and three counts of second degree commercial burglary (§ 459, counts 6-8).[1] Defendant was charged in two separate cases, which were consolidated on the People's motion (Super. Ct. L.A. County, case Nos. BA304764, BA305744). An amended information, setting forth all of his crimes, was later filed. On appeal, defendant contends that the court improperly denied his *Faretta*[2] motion; that the two criminal cases should not have been tried together because the BA305744 case was weaker than the BA304764 case, and therefore his conviction on the weaker counts must be reversed; irrelevant testimony concerning fingerprint evidence was wrongfully admitted; and cumulative error. Finding no merit in any of defendant's contentions, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Defendant was initially charged in two cases. Case No. BA305744 charged crimes occurring on May 30, 2006, and June 5, 2006, at Venetian Garden and Flowers, Botanica Elegua, and Rita's Hair Salon. Case No. BA304764 charged crimes occurring on June 10, 2006, at All You Need Party Supply and Tripti Market. On July 28, 2008, the trial court granted the People's motion to consolidate the two cases under case No. BA304764. Defendant was arraigned on the second amended information on June 9, 2009. Trial was set for July 9, 2009.

On July 9, 2009, defendant informed the court he wanted to represent himself. After conferring with defendant off the record, defendant's counsel declared a doubt about his competence. The trial court then declared a doubt under Penal Code section 1368 and adjourned the criminal proceedings. Criminal proceedings were not reinstated until February 10, 2011. Defendant was present at the February 10 mental competency hearing when his competency was reinstated. At that hearing, the trial court considered

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1 All future undesignated statutory references are to the Penal Code unless otherwise noted.

2 *Faretta v. California* (1975) 422 U.S. 806 (*Faretta*).

the reports from Doctors Haig Kojian, Hy Malinek, and Gordon Plotkin. Defendant asked to be "release[d] . . . from court. I don't want to come back no more." He also did not want to be sent back to Patton State Hospital. Defendant did not renew his *Faretta* motion or mention self-representation at the hearing.

At the March 30, 2011 pretrial hearing, defense counsel informed the court that defendant wanted to represent himself and had filed a *Faretta* waiver that same day. It was day 48 of 60 for trial. (§ 1382, subd. (a)(2).) When the trial court asked if defendant was "ready to proceed to trial today, [] or within 10 days," defendant responded, "No." His attorney, however, was ready to proceed by the next court date. The trial court denied defendant's *Faretta* motion, finding defendant was "not ready for trial. This case is over a year old. He just had mental competency restored 48 days ago."

The prosecutor then sought a three-day time waiver for trial, to accommodate his trial schedule. Defendant complained, "I have all the rights, all the rights to represent myself. He's not trying to help me." The court replied that was the basis for "some other kind of motion." Defendant responded, "Then I'm not going to come to trial. I'm going to refuse." The court responded, "I take it by that statement you do not want to waive time." The court set the next hearing for April 7, 2011, as day 56 of 60 for trial.

On April 7, 2011, the trial court conducted a *Marsden*[3] hearing, but denied defendant's request to terminate his counsel when defendant failed to articulate any reason to do so.

Trial commenced on April 11, 2011. The jury found defendant guilty on all counts and found true all special allegations (§§ 211, 459, 12022, subd. (b)(1)), and defendant admitted two prior prison terms and a strike conviction (§§ 667.5, subd. (b), 667, subds. (b)-(i), 1170.12, subds. (a)-(d)). Defendant was sentenced to a total of 21 years 8 months in prison.

The evidence at trial was as follows.

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3 *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*).

1. Venetian Garden and Flowers (Counts 3 & 6)

On May 30, 2006, at approximately 10:00 a.m., Nvard Mermeryan and Ruzanna Begoyan were working in the back of Mermeryan's flower shop, Venetian Garden and Flowers, on Santa Monica Boulevard in Los Angeles. Defendant walked into the store, wearing cargo pants, a baseball hat, and sunglasses. Mermeryan went to the front of the store and asked if defendant needed any help. He inquired about the price of a flower, walked close to Mermeryan, and pressed a knife against her stomach. Defendant demanded money, so Mermeryan walked him to the back of the store toward the cash register and told him to put the knife away so as not to scare Begoyan. Mermeryan gave defendant $37 from the register. Defendant told her he would bring the money back later. He then left the store. Mermeryan called the police.

Defendant never returned the money, but did come back to the store to look for Mermeryan, who was not there that day. Begoyan saw defendant touch a box of chocolates inside the store, which the police took as evidence.

Mermeryan identified defendant from a photographic lineup, as "look[ing] like" the person who robbed her. Begoyan also identified defendant from a photographic lineup. According to Begoyan, she and Mermeryan looked at the photographic lineup together, and Mermeryan translated what the police said for Begoyan, who speaks Armenian. Begoyan testified that the police drew the circle around defendant's picture, and that Begoyan and Mermeryan then initialed next to the photograph. Begoyan thought the robber was Hispanic because he did not speak Armenian. Officer James Jarvis, who conducted the photographic lineup for Mermeryan and Begoyan, testified that the lineup was shown to the women separately, and that Mermeryan did not translate for Begoyan.

2. Rita's Hair Salon (Counts 5 & 8)

On June 5, 2006, at approximately 2:00 p.m., Rita Melara was at her salon, Rita's Hair Salon, on Melrose Avenue. She was watching television in the back of the store when defendant entered, wearing a baseball hat and sunglasses. He approached her and told her to give him money. He took a knife out of his pocket and pressed it to her stomach. When Melara opened the register, defendant told her to take all the money out and "poked" the knife at her. She gave defendant approximately $100. Defendant said

"God bless you," and left the salon. Melara went to a nearby store to tell them what happened, but did not immediately call the police. She was scared because defendant told her other people were with him and would keep an eye on her store. She later decided to contact police and identified defendant from a photographic lineup on June 27, 2006. On the photo identification, she wrote that defendant looks "most" like the person who robbed her, except the man in the photo looked a little older and had a beard. She described the robber to police as 5 feet 2 inches tall, 115 pounds, and between 30 and 35 years old. Melara described defendant as Hispanic because he spoke Spanish to her.

3. Botanica Elegua (Counts 4 & 7)

On June 5, 2006, at 2:15 p.m., Luisa Barcelo was working at Botanica Elegua on Melrose Avenue. She was conducting a card reading in the back of the store when defendant entered. He was wearing a hat, dark glasses, and a sports jersey. He asked Barcelo the price of lotion in one of the display cases. He then put a knife to Barcelo's chest and told her to give him money. He followed Barcelo to the cash register, holding the knife. When she opened the register, he took about $400 and left.

Barcelo called police to report the robbery. Her store was equipped with video cameras, and she gave a video cassette of the robbery to responding officers, which was played for the jury. She identified defendant from a photographic lineup. She described defendant to police as 5 feet 1 or 2 inches tall, 125 to 130 pounds, and between 30 and 40 years old.

4. All You Need Party Supply (Count 1)

On June 10, 2006, at approximately 5:05 p.m., Mercedes Garcia was blowing up balloons at All You Need Party Supply on Heliotrope Drive. Defendant walked in the store wearing a gray shirt and large Hawaiian hat. Defendant asked some pricing questions and then approached Garcia behind the counter, pulling out a knife and placing it to her stomach. Garcia was scared and tried to push the knife away. Defendant told her he would kill her if she did not stop resisting. He demanded money and took $300 from a metal cash box stored under the counter, which also contained a calling card (that defendant did not take). Garcia asked for $1 back, to try and get defendant's fingerprints. He left $1 on the counter, told Garcia he would kill her if she called the police, and left.

Garcia called police. Forensic print specialists were able to lift fingerprints from the cash box and the calling card, which were later determined to match defendant's fingerprints. Garcia could not identify defendant in a photographic lineup.

5. Tripti Market (Count 2)

On June 10, 2006, at approximately 5:15 p.m., Parbati Majumdar was working at Tripti Market on Marathon Avenue. Defendant entered wearing dark glasses, a striped gray shirt, and a hat. He asked about the price of some lotion and then walked behind the counter. He put a knife to Majumdar's throat and told her to open the cash register. He took between $300 and $350 and then left. Majumdar hit the silent alarm and called police. The store had surveillance equipment which recorded the robbery, and the tape was played for the jury. Majumdar was unable to identify defendant in a photographic lineup.

6. Defendant's Arrest

On June 11, 2006, Los Angeles Police Officer Hermilio Burdios and his partner Officer Burdine responded to a burglary call at 1559 Winona. Based on the reporting party's statement, they searched for a green Geo Prism fleeing the location. The officers located the car and conducted an investigative stop. Defendant was the driver and identified himself as Mukuch Strykanian. A later search of the car revealed two knives, a brown straw hat and gray vertical striped shirt. Majumdar identified the hat, shirt, and knife as those used in the robbery. Garcia also identified the hat and shirt.

Defendant was 5 feet 6 inches tall, 160 pounds, and 40 years old at the time of his arrest.

All of the crimes were within a few city blocks of each other.

DISCUSSION

Defendant contends the trial court improperly denied his *Faretta* motion, reasoning that it was timely made two years before trial, and therefore the trial court lacked discretion to deny it. Defendant also contends that the June 10 robberies should not have been tried with the other crimes, because they bolstered weak evidence of the May 30 and June 5 crimes. Additionally, defendant contends that testimony concerning fingerprint evidence purportedly gathered at Venetian Garden was wrongfully admitted.

Lastly, he complains that even if any of these errors alone is insufficiently prejudicial, the cumulative effect of the errors requires reversal. We find no merit in any of defendant's contentions.

1. *Faretta*

A defendant has the constitutional right under the Sixth and Fourteenth Amendments to represent himself, and may waive the right to counsel in a criminal case. (*Faretta*, *supra*, 422 U.S. at p. 819.) If the defendant is mentally competent and within a reasonable time before trial makes an unequivocal request of self-representation, knowingly and intelligently after having been advised by the court of its dangers, the request must be granted. (*Id.* at p. 835; *People v. Valdez* (2004) 32 Cal.4th 73, 97-98; *People v. Welch* (1999) 20 Cal.4th 701, 729.) "In order to invoke the constitutionally mandated unconditional right of self-representation, a defendant must assert that right within a reasonable time prior to trial." (*People v. Horton* (1995) 11 Cal.4th 1068, 1110.) A motion not made within a reasonable time prior to trial is addressed to the sound discretion of the trial court. (*People v. Valdez, supra*, at p. 102; *People v. Windham* (1977) 19 Cal.3d 121, 128, fn. 5.) A motion made immediately before or on the day of trial is generally considered untimely. (See *People v. Howze* (2001) 85 Cal.App.4th 1380, 1397; *People v. Fitzpatrick* (1998) 66 Cal.App.4th 86, 91, 92.) Moreover, "the court may deny a request for self-representation that is . . . intended to delay or disrupt the proceedings." (*People v. Butler* (2009) 47 Cal.4th 814, 825.)

Defendant contends that his July 9, 2009 request was timely, because it was made nearly two years before the case ultimately went to trial in April 2011. However, the trial court properly declined to consider defendant's request to represent himself because at the time the request was made, the court declared a doubt as to his mental competence and, as a result, all criminal proceedings were suspended, and the court lacked jurisdiction to rule on the motion. (See *People v. Horton*, *supra*, 11 Cal.4th at p. 1108 ["[a]s a result of the doubt declared as to defendant's mental competency, the criminal proceedings were suspended [citation]. Thus, the court lacked jurisdiction to rule upon defendant's motion [citation] and accordingly properly declined to do so"].)

Defendant's reliance on *People v. Dunkle* (2005) 36 Cal.4th 861 is misplaced. Because of concerns regarding Dunkle's competency, proceedings were suspended on November 3, 1987, and resumed on May 19, 1988. Dunkle made a *Faretta* motion on June 17, 1988, which was denied, and proceedings were again suspended on March 8, 1989. He was again found competent on August 3, 1989, and trial began on October 16, 1989. (*Dunkle,* at pp. 881-882.) The Supreme Court found that "defendant's June 17, 1988 request to represent himself, made over a year before the commencement of his criminal trial, was timely . . . when he made the request, defendant had just been found competent to stand trial. Thus, the superior court erred in denying the request." (*Id*. at pp. 908-909.) Notably, Dunkle was not incompetent at the time he made his *Faretta* motion, proceedings had not been suspended, and trial was not imminent. In contrast, defendant's first *Faretta* motion is a nullity because he was not competent at the time he made it, and proceedings were suspended when he made his request for self-representation. (*People v. Horton*, *supra*, 11 Cal.4th at p. 1108; see also *People v. Stanley* (2006) 39 Cal.4th 913, 931-932 [the defendant must be mentally competent for his request to represent himself to be made knowingly and intelligently].)

As to defendant's March 30, 2011 request to represent himself, made just 12 days before trial, the trial court properly found it to be untimely. In exercising its discretion, the trial court considers the quality of counsel's representation, defendant's previous efforts to substitute counsel, the reason for the request, the length and stage of the proceedings, and the disruption or delay that might reasonably be expected to follow the granting of such a motion. (*People v. Jenkins* (2000) 22 Cal.4th 900, 959; *People v. Marshall* (1996) 13 Cal.4th 799, 827.) When the trial court exercises its discretion to deny a motion for self-representation as untimely, "a reviewing court must give 'considerable weight' to the court's exercise of discretion and must examine the total circumstances confronting the court when the decision is made." (*People v. Howze*, *supra*, 85 Cal.App.4th at pp. 1397-1398.)

Our review of "the entire record—including proceedings after the purported invocation of the right of self-representation" establishes the trial court acted well within its discretion in denying the motion. (*People v. Marshall* (1997) 15 Cal.4th 1, 24.) It was

clear that defendant was not ready to proceed to trial, and that a continuance would have been necessary. Also, the *Marsden* proceedings did not reveal any deficiencies in the quality of appointed counsel's representation. The trial court had plenty of opportunities to observe counsel's representation of defendant, and stated that defendant had "such a good lawyer." At the time this request was made, the proceedings had been pending for a year, not counting the one year and seven months proceedings were suspended. There were also nearly 20 witnesses scheduled to testify at trial, and a bench warrant had to be issued to secure the presence of Begoyan. Giving the trial court's decision the considerable weight it is due, denial of the motion was well within the trial court's discretion.

Furthermore, the record adequately supports an inference that the request was made for the purpose of delay. (*People v. Butler*, *supra*, 47 Cal.4th at p. 825; *People v. Marshall*, *supra*, 15 Cal.4th at p. 25.) Two of the three psychological assessments provided to the court to determine defendant's competency opined that defendant was malingering. Dr. Plotkin believed defendant was attempting to "avoid punishment and/or adjudication of a crime." Defendant "is able to cooperate with counsel, but chooses not to and is able to understand the nature of the proceedings, but again chooses not to participate." At the February 10 and March 30, 2011 hearings, defendant stated that he just wanted to go home, and that he would "refuse" to come to court. It is clear that he simply wanted to avoid trial, and that his *Faretta* motion was a means to achieve this goal. (*People v. Marshall*, *supra*, 15 Cal.4th at pp. 25-26, fn. omitted ["The court should evaluate all of a defendant's words and conduct to decide whether he or she truly wishes to give up the right to counsel and represent himself or herself and unequivocally has made that clear. [¶] . . . Defendant's asserted mental crises . . . support the inference that delay of the trial was one of defendant's objectives . . . it appears defendant attempted to subvert the orderly administration of justice" in making his *Faretta* motion].)

2. Consolidation

Two or more accusatory pleadings may be consolidated for trial when the offenses are of the same class of crime, or are connected in their commission. (§ 954.) "Because consolidation ordinarily promotes efficiency, the law prefers it. 'Joinder of related

charges, whether in a single accusatory pleading or by consolidation of several accusatory pleadings, ordinarily avoids needless harassment of the defendant and the waste of public funds which may result if the same general facts were to be tried in two or more separate trials [citation], and in several respects separate trials would result in the same factual issues being presented in both trials.' [Citation.] Thus '[a] defendant can prevent consolidation of properly joined charges only with a "clear showing of prejudice" ' [Citation.]" (*People v. Ochoa* (1998) 19 Cal.4th 353, 409, fn. omitted.) Whether pleadings are properly consolidated pursuant to section 954 is a question of law and is subject to independent review on appeal. A determination of whether separate proceedings are required in the interests of justice is reviewed for an abuse of discretion. (*People v. Cunningham* (2001) 25 Cal.4th 926, 984.) And, "even if a trial court's ruling on a motion to [consolidate] is correct at the time it was made, a reviewing court still must determine whether, in the end, the joinder of counts resulted in gross unfairness depriving the defendant of due process of law." (*People v. Gonzales and Soliz* (2011) 52 Cal.4th 254, 281.)

The parties agree that the crimes are of the same class, and consolidation of the two accusatory pleadings was proper under section 954. Where the statutory criteria for consolidation are present, a defendant may establish error only by clearly showing the trial court abused its discretion in granting the prosecution's consolidation motion. (See *Alcala v. Superior Court* (2008) 43 Cal.4th 1205, 1220.) In deciding whether the trial court abused its discretion, "we consider the record before the trial court when it made its ruling." (*Ibid.*) "'The factors to be considered are these: (1) the cross-admissibility of the evidence in separate trials; (2) whether some of the charges are likely to unusually inflame the jury against the defendant; (3) whether a weak case has been joined with a strong case or another weak case so that the total evidence may alter the outcome of some or all of the charges; and (4) whether one of the charges is a capital offense, or the joinder of the charges converts the matter into a capital case.' [Citations.] 'The state's interest in joinder gives the court broader discretion in ruling on a motion for severance than it has in ruling on admissibility of evidence.' [Citations.]" (*Id.* at pp. 1220-1221.)

First, we will consider if the evidence is cross-admissible. If evidence of one crime would be admissible at a separate trial of the other crime, any potential prejudice from consolidation is ordinarily dispelled. (*People v. McKinnon* (2011) 52 Cal.4th 610, 630.) However, lack of cross-admissibility is not, by itself, sufficient to demonstrate prejudice. (*Id.* at pp. 630-631.)

Although other crimes' evidence is not admissible to prove criminal propensity, it may be admitted to prove motive, intent, identity, or a common design or plan. (Evid. Code, § 1101, subds. (a), (b).) " 'For identity to be established, the uncharged misconduct and the charged offense must share common features that are sufficiently distinctive so as to support the inference that the same person committed both acts. [Citation.] "The pattern and characteristics of the crimes must be so unusual and distinctive as to be like a signature." [Citation.]' [Citation.]" (*People v. Erving* (1998) 63 Cal.App.4th 652, 660.) Here, it is clear that the May 30, June 5, and June 10 crimes shared common characteristics which were probative of defendant's identity. These crimes occurred at small independent businesses, with female proprietors who were working alone (or in Mermeryan's case, apparently working alone). Defendant disguised himself with a hat and sunglasses. He used a knife in each crime, and pressed it to the body of his victim. Each crime was committed over the course of 10 days, in close proximity to each other. Although a disguise and the use of a weapon may be features common to many robberies, the location, time-frame, and characteristics of the stores and proprietors here, as well as the choice of disguise and weapon, are sufficiently distinctive to render the evidence cross-admissible. (See *id*. at pp. 660-661; see also *People v. Roldan* (2005) 35 Cal.4th 646, 706; cf. *People v. Haston* (1968) 69 Cal.2d 233, 247-248.)

We also consider whether the benefits of consolidation outweigh the " 'spill-over' " effect that the evidence of other crimes may have on the jury. (*People v. Soper* (2009) 45 Cal.4th 759, 775.) In making this determination, we consider whether some of the charges are likely to inflame the jury against the defendant. (*Ibid.*) We also consider whether a weak case is joined with a strong case so that the totality of the evidence could have altered the outcome as to some or all of the charges. (*Ibid*.) Defendant contends that the evidence of the May 30 and June 5 crimes was weaker, and thus the outcome was

likely tainted by consolidation with the June 10 crimes. Defendant is mistaken. The evidence supporting the May 30 and June 5 crimes was not appreciably weaker than the June 10 crimes. For the May 30 and June 5 crimes, the witnesses had an ample opportunity to observe defendant, and each witnesses picked him out of a photographic lineup. For the June 10 crimes, neither victim was able to identify defendant in a photographic lineup, although fingerprint evidence linked defendant to one of the crimes, and the victims were able to identify defendant's clothing. "[T]he benefits of joinder are not outweighed—and severance is not required—merely because properly joined charges might make it more difficult for a defendant to avoid conviction compared with his or her chances were the charges to be separately tried." (*Id.* at p. 781.) Based on the facts before the trial court, we conclude the court did not abuse its discretion and find no basis for asserting a constitutional violation.

3. Fingerprint Evidence

Officer Jarvis, who investigated the May 30 and June 5 robberies, was asked during direct examination why he included defendant in the photographic lineup he showed to witnesses. He responded that "[d]uring the course of my investigation, I made several observations that these three particular robberies all had commonalities . . . ." Defense counsel objected on hearsay grounds. The prosecutor argued that the testimony was not being offered for a hearsay purpose, and that "I'm just establishing what caused him to suddenly pick the defendant out and put him in a lineup." The trial court overruled the objection. Officer Jarvis then went on to testify that the crimes were similar because of their proximity, the use of a knife, and that the suspect wore sunglasses. He also testified that "I was advised that there was a print match from one of the crime locations, specifically that of the Venetian Garden." Begoyan later testified that she saw defendant touch a box of chocolates inside the store, which the police took as evidence.

Later in the trial, the prosecution informed the court that the fingerprint analyst who lifted the fingerprints from the chocolates from Venetian Garden was unavailable to testify. The trial court denied the prosecutor's motion to introduce the fingerprint card in lieu of the analyst's testimony. Defense counsel moved to exclude the testimony that

fingerprints were found at Venetian Garden and requested an admonishment to the jury. The court concluded that there was no evidence presented at trial that fingerprints had been lifted from the box, and therefore exclusion and an admonishment were unnecessary.

Hearsay is an out-of-court statement offered for the truth of the matter asserted. (Evid. Code, § 1200.) Generally, it is inadmissible, unless it falls into one of the enumerated exceptions to the hearsay rule. (§ 1220 et seq.) Evidence may be admitted for a nonhearsay purpose if it is relevant to a matter at issue in the case. (*People v. Turner* (1994) 8 Cal.4th 137, 189 ["An out-of-court statement is properly admitted if a nonhearsay purpose for admitting the statement is identified, and the nonhearsay purpose is relevant to an issue in dispute"].) Thus, evidence may be properly admitted for the nonhearsay purpose of proving, for example, why Officer Jarvis began to investigate defendant for the May 30 and June 5 crimes.

Defendant argues that Officer Jarvis's state of mind is not relevant, because the jury was not asked to decide why Officer Jarvis included defendant in the photographic lineup. We disagree. Such "course of investigation" testimony is routinely admitted at trial. (See *People v. Marsh* (1962) 58 Cal.2d 732, 738.) Defendant's reliance on *People v. Lucero* (1998) 64 Cal.App.4th 1107 is misplaced. In *Lucero,* the trial court permitted a police officer to testify that a witness at the scene of a robbery told him a footprint left at the scene belonged to the robber. In overruling the defendant's hearsay objection, the trial court concluded that "the statement was not introduced to prove the truth of the matter asserted but to explain the conduct of the officer." (*Lucero,* at p. 1109.) On appeal, the People argued that "the evidence was admitted for the nonhearsay purpose of 'showing [Officer Mundy's] good faith or the reasonableness of his conduct.' " (*Ibid.*) The court rejected this rationale, finding that "even if the witness's statement to [the officer] was offered for a nonhearsay purpose it still had to be *relevant* to be admissible . . . . '. . . the legality of defendant's arrest was not in issue.' " (*Id.* at p. 1109-1110, citation omitted.) *Lucero* simply does not stand for the proposition that "course of investigation" evidence is only relevant if probable cause is a disputed issue at trial. Here, the testimony was not introduced to show that Officer Jarvis had probable cause to

arrest defendant, but rather to explain why defendant's photo was included in the photographic lineup.

Even if the evidence was wrongfully admitted, any error was necessarily harmless. A conviction will only be reversed when it is reasonably probable a result more favorable to the defendant would have occurred in the absence of the error. (*People v. Watson* (1956) 46 Cal.2d 818, 836.) In this case, ample evidence, including video surveillance and eyewitness identifications, supports the jury's verdict (see *ante*).

4. Cumulative Error

Lastly, defendant contends that even if the above asserted individual errors were not sufficiently prejudicial to warrant reversal, their cumulative effect denied him his federal and state constitutional right to a fair trial. Because we have concluded that each of defendant's claims of error is meritless, there are no errors to cumulate.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.